

Message Text

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L-03 XMB-02 OPIC-03 AID-05 CIAE-00 INR-07 NSAE-00

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FM AMEMBASSY CAIRO

TO SECSTATE WASHDC IMMEDIATE 6653

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EO 11652: NA

TAGS: USEGJC EINV

SUBJECT: US-EGYPT JOINT BUSINESS COUNCIL

REF: A. STATE 224725 B. STATE 211527

1. EXTENSIVE DISCUSSIONS WITH CALDWELL AND BREWER HAVE GIVEN EMBASSY CLEARER PICTURE OF WHAT US SIDE OF JBC EXPECTS FROM PREPARATORY MATERIALS AND ACTUAL MEETINGS. AS USUAL, PARTICIPANTS WILL HAVE DEFINITE LIMITS ON TIME THEY CAN DEVOTE TO BRIEFING BOOKS, WHICH MUST THEREFORE BE RESTRICTED IN OVERALL VOLUME AND AT SAME TIME CONTAIN WIDE RANGE OF ESSENTIAL INFORMATION.

2. IN THIS CONTEXT, LIST OF TOPICS PROPOSED PARA 4 REFTEL B APPEARS TO COVER MUCH OF WHAT IS IMPORTANT. WE WOULD SUGGEST ADDITION OF ONE OR TWO ITEMS AND REORDERING OF REMAINDER AS FOLLOWS:

I. POLITICAL OVERVIEW. EMPHASIS ON DEVELOPMENTS SINCE 1971, AND PARTICULARLY SINCE 1973, IN RELATIONS WITH US. AMBASSADOR WILL COVER THIS SUBJECT IN HIS BRIEFING HERE, BUT IT MERITS CLOSE ATTENTION. FURTHER, IT IS NOT CERTAIN THAT ALL
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PARTICIPANTS WILL BE HERE IN TIME FOR BRIEFING.

II. ECONOMIC OVERVIEW.

A. GENERAL BACKGROUND.

B. CURRENT SITUATION AND SHORT-TERM OUTLOOK.

C. LONG-RANGE GOALS AND PROSPECTS.

III. OPEN DOOR.

A. GENERAL PHILOSOPHY

B. LAW 43 AND IMPLEMENTING REGULATIONS.

C. TRIANGULAR INVESTMENT POSSIBILITIES.

D. PROBLEMS FACING INVESTORS (DISCUSSION FOLLOWS).

IV. USG PROGRAMS (WITH EMPHASIS ON PRIVATE BUSINESS ASPECTS).

A. AID

B. PL 480

C. EX-IM AND OPIC

D. JOINT COMMISSIONS, INCLUDING SFCP ACTIVITIES.

3. WITH REGARD KEY PROBLEMS FACED BY INVESTORS, WHICH SHOULD CORRECTLY BE OF PRIME INTEREST TO BOTH SIDES IN JBC MEETINGS, WE HAVE SUGGESTED TO CALDWELL THAT MURPHY COULD PERHAPS PRESENT BRIEF DOCUMENT TO PRESIDENT SADAT OR PRIMIN SALIM NEAR END OF MEETINGS, SUMMARIZING VIEWS OF US PARTICIPANTS ON THIS SUBJECT. THIS WOULD BE IN ADDITION TO A FINAL JOINT STATEMENT (COMMUNIQUE) IN WHICH, TO THE EXTENT THE EGYTIAN SIDE AGREES AND IS WILLING TO SAY SO, SOME OF THESE POINTS MAY ALSO BE MENTIONED. AS DEPT IS AWARE, EFFORTS TO FOCUS GOE'S ATTENTION ON OBSTACLES TO INVESTMENT HAVE BEEN MADE BEFORE (AMBASSADOR GAVE MEMO TO SALIM MAY 1975 REPORTED CAIRO LIMITED OFFICIAL USE

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4943) BUT VISIBLE RESULTS HAVE BEEN QUITE LIMITED, REAL NIL. JBC MEETING IS AN EXCELLENT OPPORTUNITY, HOWEVER, TO RAISE MOST IMPORTANT ISSUES AGAIN.

4. PROBLEM WITH THIS APPROACH IS THAT IT FOCUSES ATTENTION ON FEW PRINCIPAL AND MOST EVIDENT OBSTACLES RATHER THAN ON FACT THAT PHILOSOPHY ON WHICH LAW 43 WAS BASED IS FLAWED, AND THAT ENTIRE FABRIC OF LEGISLATION SHOULD THEREFORE BE RESTRUCTURED.

FEW US COMPANIES, IF ANY, APPEAR TO HAVE GOTTEN FAR ENOUGH INTO INVESTMENT PLANNING TO DISCOVER MYRIAD SMALL HINDRANCES AND WORSE THAT LIE BEHIND MORE OBVIOUS PROBLEMS OF EXCHANGE RATES AND PROFIT REMITTANCES, ET. AN ILLUSTRATION IS TAX HOLIDAY (SEE BELOW).

5. EGYPTIANS SUFFERED FROM MAJOR MISCONCEPTIONS IN INSTITUTE OPEN DOOR, RESULT OF BOTH ISOLATION AND EGOCENTRISM WHICH PRODUCED BELIEF THAT EAGER INVESTORS WERE READY TO BATTER DOWN DOOR, BEFORE IT WAS EVEN OPEN, IN ORDER TO POUR THEIR MONEY INTO EGYPT. FACT THAT MANY OTHER COUNTRIES ALSO SEEK INVESTMENT, AND HAVE CREATED HIGHLY FACILITATIVE ENVIRONMENTS FOR THAT PURPOSE, WAS EITHER UNKNOWN OR IGNORED, AS WAS RELATIVE SHORTAGE OF INVESTMENT CAPITAL AND DETERMINING FACTOR THAT, OTHER THINGS BEING EQUAL, INVESTORS WILL PLACE THEIR MONEY WHERE OPTIMUM RETURN IS AVAILABLE.

6. RESULT WAS LAW 43, WHICH IS FILLED WITH RESTRICTIONS OF VARIOUS KINDS DESIGNED TO LEAVE CLOSE CONTROL OF FOREIGN INVESTMENT AND OPERATIONS IN HANDS OF GOE BUREAUCRACY.

7. FOR EXAMPLE, LAW IS WRITTEN TO PROVIDE VIRTUALLY TOTAL FLEXIBILITY FOR GOE ON ALMOST EVERY ASPECT OF INDIVIDUAL INVESTMENT, WHICH MUST BE APPROVED ON AD HOC BASIS. THIS NOT ONLY REMOVES POSSIBILITY OF KNOWING GROUND RULES IN ADVANCE, WHICH PRODUCES DELAYS IN PREPARATIONS BY INVESTOR, BUT IT ALSO NECESSITATES MULTIPLE DECISIONS AT VARIOUS LEVELS AND LOCATION WITHIN GOE. THIS IS MORE CRITICAL PROBLEM, AS SADAT REGIME IS INCREASINGLY AWARE, SINCE MIDDLE-LEVEL EGYPTIAN BUREAUCRATS ARE PERHAPS WORLD'S FOREMOST PRACTITIONERS OF CREATIVE INEFFECTIVENESS; DECISIONS ARE ONE THING THEY CANNOT PRODUCE.

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8. CONCEPT OF FOREIGN INVESTMENT IS STILL SOURCE OF CONCERN FOR SOME SEGMENTS OF BODY POLITIC, ESPECIALLY THOSE WHO HAVE BEEN BROUGHT UP ON ARAB SOCIALISM AND TEND TO CONSIDER CAPITALISM AS A DIRTY WORD. RESISTANCE OF PUBLIC SECTOR TO INTRODUCTION OF COMPETITION FROM FOREIGNERS IS SEPARATE BUT NOT WHOLLY UNRELATED ASPECT OF PROBLEM.THESE OBSTACLES WOULD ALSO PLAY A ROLE IN EFFORTS TO RESTRUCTURE EXISTING LEGISLATION, AND, THUS, THERE IS CONTINED RESISTANCE WITHIN PEOPLE'S ASSEMBLY TO CHANGING PRESENT LAW, DESPITE ITS SHORTCOMINGS.

9. MOREOVER, THERE IS STILL A WIDELY-HELD BELIEF IN THESE SECTORS OF GOE DEALING WITH OPEN DOOR THAT A REASONABLE ANNUAL RETURN ON AN INVESTMENT IS SOMEWHERE IN NEIGHBORHOOD OF 10 PERCENT. COUPLED WITH THIS IS VIEW THAT PARTICIPATION OF AN AMERICAN COMPANY IN JOINT VENTURE, PARTICULARLY TRIANGULAR VARIETY MUST BE ACCOMPANIED BY SIZEABLE FINANCIAL INPUT, IN ADDITION TO TECHNOLOGY, AS A VOUCHSAFE OF REAL INTEREST.

10. FINALLY, TO GIVE DUE CREDIT TO NUMEROUS OFFICIALS WHO ARE CONSTRUCTIVELY GRAPPLING WITH OBSTACLES TO FEW REALLY MEANINGFUL INVESTMENTS THAT HAVE BEEN PROPOSED, TOTAL LACK OF CLEAR-CUT PLAN OF OVERALL INVESTMENT PRIORITIES AND OBJECTIVES HINDERS EVEN MOST CONSCIENTIOUS EFFORT TO PUSH A PROJECT THROUGH.
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EACH MINISTRY AND AUTHORITY HAS ITS OWN PET SCHEMES, AND RESULTING INTER-AGENCY DISPUTES ARE OFTEN REFLECTED IN EXCESSIVE DELAYS AND ON-OFF SIGNALS OF WHICH INVESTORS INVARIABLY COMPLAIN.

II. WITH ABOVE AS PREAMBLE AND CAVEAT, EMBASSY PROVIDES FOLLOWING SPECIFIC POINTS FOR HIGHLIGHTING IN INVESTMENT PAPER, AS REQUESTED REF A.

A. LAW 43 STIPULATES THAT INVESTED CAPITAL MUST ENTER AT PRESENT OFFICIAL RATE OF EXCHANGE. EXISTENCE OF TWO EXCHANGE RATES, WITH POSSIBILITY THAT ONE OR BOTH MAY BE CHANGED, RAISES SERIOUS QUESTIONS ON DISTRIBUTION AND THEREFORE REPATRIATION OF PROFITS AS WELL AS CAPITAL.

B. FIVE-YEAR TAX EXEMPTION UNDER ARTICLE 16 OF LAW 43 IS APPLICABLE ONLY IF PROFITS ARE NOT, AS A CONSEQUENCE, SUBJECT TO TAXATION IN INVESTORS' HOME COUNTRY. SINCE US TAX LAWS ARE GROUNDED ON PRINCIPLE THAT RESIDENTS ARE SUBJECT TO TAX FROM WHATEVER SOURCE DERIVED, THERE IS QUESTION WHETHER ANY US FIRM COULD BENEFIT FROM TAX-HOLIDAY IN EGYPT. CHANNELING OF PROFITS INTO FOREIGN SUBSIDIARY WOULD ONLY POSTPONE APPLICATION OF US TAX "AS A CONSEQUENCE" OF ARTICLE 16 IF EGYPTIANS CHOOSE TO BE STRICT. (TREASURY, OF COURSE, IS WELL-INFORMED ON THIS SUBJECT: WHICH INTERESTINGLY ENOUGH, HAS BEEN RAISED BY ONLY ONE US INVESTOR OUT OF HUNDREDS THAT HAVE VISITED EMBASSY.) EFFORTS TO RESOLVE THIS PROBLEM THROUGH MEIDUM OF A US-EGYPTIAN TAX TREATY HAVE BEEN GOING ON FOR NEARLY A YEAR, BUT REMAINED STALLED ON THIS VERY POINT.

C. UNDERLYING PRINCIPLE OF OPEN DOOR IS JOINT VENTURE, IN WHICH REQUIRED CAPITAL WILL BE FORMED THROUGH LOCAL AND FOREIGN PARTICIPATION AND ISSUANCE OF STOCK. RULES ON FOREIGN CAPITAL ARE RELATIVELY CLEAR, BUT ONCE BLENDED WITH LOCAL CAPITAL IT LOSES ITS STATUS AND SITUATION BECOMES QUITE OBSCURE DUE TO DOMESTIC RULES. LACK OF DEVELOPED STOCK MARKET, WITH CLEAR-CUT GUIDELINE ON CAPITAL STRUCTURES, ISSUES, VALUES AND CLASSES OF STOCK, ABSENCE OF BASIC GROUND RULES ON STATUS OF RETAINED EARNINGS, ETC., LEAD TO CONFUSION AS TO HOW TOTAL FINANCIAL SITUATION WILL DEVELOP. DISCRIMINATION AGAINST LOCAL CURRENCY, E.G. PURCHASE OF ASSETS FROM FOREIGN EXCHANGE INVESTOR BY MEANS OF LOCAL CURRENCY DOES LIMITED OFFICIAL USE

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NOT CARRY WITH IT PROVISIONS OF LAW 43, ALSO REDUCES POSSIBILITIES FOR EVENTUAL SALES.

D. WITH VERY FEW POSSIBLE EXCEPTIONS, NONE YET GRANTED, EVERY INVESTMENT IS REQUIRED TO GENERATE TOTALITY OF ITS OWN FOREIGN EXCHANGE REQUIREMENTS, INCLUDING WAR MATERIALS, MACHINERY, DEBT SERVICES AND PROFIT REMITTANCES, ETC., REGARDLESS OF ANY DOMESTIC PROFIT SITUATION. IMPORT SUBSTITUTION INVESTMENTS ARE THEREFORE ESSENTIALLY FORECLOSED, AND EVEN THOSE INVOLVED IN EXPORTS MAY EXPERIENCE DIFFICULTIES IN REPATRIATING PROFITS.

E. NATURE OF PRIVATE BUSINESS REQUIRES CLOSE ATTENTION TO MATTER OF TIMING. EXCESSIVE DELAYS IN RESPONDING TO QUESTIONS OR PROPOSALS RELATING TO INVESTMENTS WILL REDUCE LIKELIHOOD OF SECURING IT, AND WILL AT SAME TIME DISCOURAGE RECEIPT OF

OTHERS.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: INTERGOVERNMENTAL COOPERATION, MEETINGS, FOREIGN INVESTMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 22 SEP 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: buchant0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975CAIRO09422
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750328-0061
From: CAIRO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750927/aaaaaxru.tel
Line Count: 279
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION NEA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 STATE 224725, 75 STATE 211527
Review Action: RELEASED, APPROVED
Review Authority: buchant0
Review Comment: n/a
Review Content Flags:
Review Date: 30 JUL 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <30 JUL 2003 by ShawDG>; APPROVED <29 DEC 2003 by buchant0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: US-EGYPT JOINT BUSINESS COUNCIL
TAGS: EINV, EG, US, USEGJC
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006